

**AFFIDAVIT IN SUPPORT
OF CRIMINAL COMPLAINT**

I, Maricruz Lam, being duly sworn, hereby depose and state:

Introduction

1. I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations (HSI), assigned to the Special Agent in Charge in San Juan, Puerto Rico. I have been so employed since July 18, 2010. As part of my daily duties as an HSI agent, I investigate criminal violations relating to child exploitation and child pornography including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2252(a) and 2252A, 18 U.S.C. § 1470, which makes it a crime to transfer obscene material to minors, and to the coercion and enticement of minors to engage in illegal sexual activity, in violation of 18 U.S.C. § 2422(b). I have received training in the area of child pornography and child exploitation and have had the opportunity to observe and review examples of child pornography (as defined in 18 U.S.C. § 2256).

2. This Affidavit is made in support of a Criminal Complaint against **Pedro Luis BAEZ-Torres** based on violations of Title 18, United States Code, Section 2251(a) (**Production of Child Pornography**), and Sections 2252(a)(4)(B) and 2252A(a)(5)(B) (**Possession of Child Pornography**).

3. I am familiar with the information contained in this Affidavit, which is based upon the investigation the HSI Cyber Crimes Group have conducted, information received from other law enforcement officials, and on my conversations with other law enforcement officers who have engaged in numerous investigations involving child pornography. Because this Affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that **Pedro Luis BAEZ- Torres** violated Title 18 U.S.C. §§ 2251 and 2252 (Production and Possession of Child Pornography).

This investigation has revealed that an individual identified as **Pedro Luis BAEZ- Torres**, produced and possessed images of child pornography in his cellular phone.

Child Pornography Definitions

4. Title 18, United States Code, Section 2256 (1), defines “minor” as any person under the age of eighteen years.

5. Title 18, United States Code, Section 2256(2), defines “sexually explicit conduct” as actual or simulated:

- a. Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-

- anal, whether between persons of the same or opposite sex;
- b. Bestiality;
- c. Masturbation;
- d. Sadistic or masochistic abuse; or
- e. Lascivious exhibition of the genitals or pubic area of any person.

6. Title 18, United States Code, Section 2256(5), defines “visual depiction” as including undeveloped film and videotape, and data stored on computer disk or by electronic means, which is capable of conversion into a visual image.

7. For purposes of this affidavit, “child pornography,” as defined by Title 18, United States Code, Section 2256(8), means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where – (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; . . . [or] (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.” For conduct occurring after April 30, 2003, the definition also includes “(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from that of a minor engaging in sexually explicit conduct.”

8. The term “computer,” as used herein, is defined pursuant to Title 18, United States Code, Section 1030(e)(1), as “an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device.”

Probable Cause

9. On April 23, 2013, Homeland Security Investigations (HSI), San Juan, Puerto Rico Cyber Crimes Group (CCG) received information from Puerto Rico Police Department, Caguas Sexual Crimes Division regarding a twenty five (25) year old adult male identified as **Pedro Luis BAEZ-Torres**. According to the information provided, BAEZ-Torres requested explicit images from a fourteen (14) year old female minor. HSI opened an investigation to determine BAEZ-Torres’s involvement with production of child pornography.

10. On August 23, 2010, Task Force Agent (TFA) Nereida Sanchez interviewed a fourteen (14) year old female minor, known as “JANE DOE,” at Puerto Police Department, Caguas Sexual Crime Division.

11. JANE DOE claimed that on April 2013, BAEZ-Torres, a twenty five (25) year old male, United States Citizen, resident of Cidra, Puerto Rico, and Security Guard at Gerardo Sellez-Sola School in Cayey, Puerto Rico, requested the “Kik” nickname from her. Kik is a smartphone application which utilizes the internet to send instant messages. In addition, Kik users have the ability to share images and videos through the same application.

BAEZ-Torres requested JANE DOE's Kik nickname by asking YJS, a fifteen (15) year old boy, who is a classmate of JANE DOE, to speak with her and let her know that he (BAEZ-Torres) wanted her Kik nickname in order to communicate with her. YJS complied and spoke with JANE DOE. YJS told JANE DOE that BAEZ-Torres found her pretty and liked her, and that he wanted her Kik nickname in order to communicate with her. JANE DOE complied and gave YJS her Kik nickname in order to give it to BAEZ-Torres.

12. On or about April 2013, BAEZ-Torres began to have conversations with JANE DOE via Kik. During their initial conversations, BAEZ-Torres told JANE DOE that she was extremely pretty and that he liked her. During one of their initial conversations, BAEZ-Torres asked how old she was and JANE DOE said fourteen (14) years old.

13. During their initial conversations, BAEZ-Torres asked for images of JANE DOE, in order to keep them as a keepsake. JANE DOE complied with BAEZ-Torres's requests, and she sent him several images of herself, fully clothed.

14. BAEZ-Torres then began to request images of JANE DOE in underwear. JANE DOE complied with BAEZ-Torres's requests and sent him several images of her in underwear.

15. Over time, BAEZ-Torres turned more demanding, and began to request sexually explicit images from JANE DOE. According to JANE DOE, BAEZ-Torres was specific when he requested the sexually explicit images. JANE DOE stated that, on one occasion, BAEZ-Torres asked her to raise her legs, then spread her legs apart, and to take a photograph displaying her vagina in that pose.

16. JANE DOE further stated that, on another instance, BAEZ-Torres asked her to get on her hands and knees, and to take a picture of her vagina area. According to JANE DOE, she complied with BAEZ-Torres's requests and sometime between May 2013 and July 2013, she sent BAEZ-Torres over thirty (30) images of herself completely nude, in various sexually explicit poses, all requested by BAEZ-Torres.

17. JANE DOE stated she sent BAEZ-Torres all the above referenced images via the smartphone application Kik. JANE DOE recognized BAEZ-Torres's cellphone as a Samsung Galaxy smartphone.

18. On August 10, 2013, BAEZ-Torres sent JANE DOE three (3) videos of himself completely nude masturbating, via Tango. Tango is an application which allows users to send free text messages, play games, make free phone calls, and video calls. This application works with iOS devices, Android devices, Windows devices, tablets and personal computers. The application utilizes the internet to send data between the users.

19. After BAEZ-Torres sent the above referenced videos, he contacted JANE DOE, via Kik, to let her know that he had sent her some videos. Thereafter, BAEZ-Torres requested that JANE DOE send him videos of herself masturbating.

20. On August 10, 2013, JANE DOE complied and sent BAEZ-Torres four (4) videos of herself masturbating.

21. On August 26, 2013, Homeland Security Investigations conducted surveillance in an attempt to locate BAEZ-Torres. BAEZ-Torres was located at Urbanización El Lago, Apartment D9, Cidra, Puerto Rico, 00739. According to the investigation, this is the residence that BAEZ-Torres shares with his wife and children.

22. On August 26, 2013, a Federal Search Warrant was issued by the Honorable Magistrate Judge Bruce J. McGiverin based on allegations brought by "JANE DOE."

23. On August 26, 2013, HSI agents went to BAEZ-Torres's residence to execute the Federal Search Warrant. Upon gaining entry to the residence, BAEZ-Torres was identified as the person residing in the apartment.

24. On August 26, 2013, HSI seized a Samsung cellular phone belonging to BAEZ-Torres.

25. HSI Agents provided a copy of the search warrant to BAEZ-Torres and explained its purpose. Subsequently, this affiant and TFA Rosa Robles read him his constitutional rights in his native language, Spanish.

26. Digital Forensic Agent (DFA) Salvador Santiago conducted a preliminary forensic examination on the above mentioned Samsung Cellular Phone. DFA Santiago encountered one hundred and twenty two (122) images depicting JANE DOE posing nude in a sexually explicit manner and exposing her genitals.

Conclusion

Based on the above information, the undersigned submits that there is probable cause to believe that the **Pedro Luis BAEZ-Torres** has violated Title 18, United States Code, Sections 2251(a), 2252(a)(4)(B) and 2252A(a)(5)(B), which, among other things, make it a federal crime for any person to knowingly produce and/or possess child pornography.



MARICRUZ LAM
Special Agent
Homeland Security Investigations
Immigration and Customs Enforcement

Subscribed and sworn before me in San Juan, Puerto Rico, on this 4th day of September 2013.



MARCOS E. LOPEZ
UNITED STATES MAGISTRATE JUDGE
DISTRICT OF PUERTO RICO